

**IN THE UNITED STATES DISTRICT COURT  
OF THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**ADAPTIX, INC. §  
v. §  
§  
ALCATEL-LUCENT USA, INC., ET AL. §**

**6:12cv22-RWS-CMC**

**ORDER**

Before the Court are Defendants' Objections to Magistrate Judge Craven's Order Regarding their Motion to Strike Portions of Dr. Wells' Report (Dkt. No. 442) and Defendants' Objections to Magistrate Judge Craven's Order Denying their *Daubert* Motion to Exclude Opinions and Testimony of Plaintiff's Damages Expert, Philip Green (Dkt. No. 443).

On July 16, 2015, the Magistrate Judge entered a 19-page order denying Defendants' motion to exclude the opinions of Mr. Green, Adaptix's damages expert. The Magistrate Judge found Mr. Green's testimony violates neither the entire market value rule or the rules regarding apportionment. Additionally, the Magistrate Judge noted Defendants' objections directed to the relevance and reliability of Mr. Green's incremental revenue opinion and his treatment of the patent license agreement between Nokia-Siemens Network and Adaptix (the "NSN license agreement") go to the weight of Mr. Green's testimony, rather than its admissibility.

The following day, the Magistrate Judge denied Defendants' motion to strike portions of Dr. Jonathan Wells' expert report, concluding Dr. Wells' report does not deviate from Adaptix's infringement contentions to a degree that would warrant striking Dr. Wells' "selecting all" or "selecting some" Mode 3 opinions. The Magistrate Judge also declined to strike from Dr. Wells'

report all contributory infringement theories with respect to the '283 patent and the '172 patent.

The Court has reviewed the relevant briefing and Defendants' objections to the Magistrate Judge's July 16 and 17 orders. Defendants have not demonstrated the Magistrate Judge's orders are clearly erroneous or contrary to law. FED. R. CIV. P. 72(a); *see also* 28 U.S.C. § 636 (b)(1)(A). Accordingly, it is hereby

**ORDERED** that Defendants' Objections to Magistrate Judge Craven's Order Regarding their Motion to Strike Portions of Dr. Wells' Report (Dkt. No. 442) and Defendants' Objections to Magistrate Judge Craven's Order Denying their *Daubert* Motion to Exclude Opinions and Testimony of Plaintiff's Damages Expert, Philip Green (Dkt. No. 443) are **OVERRULED**.

**SIGNED** this 25th day of August, 2015.

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE